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10/760,044	01/18/2004	Mitchell M. Rohde	1048.004US1	8490

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EXAMINER
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HU, KANG

ART UNIT	PAPER NUMBER
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3709

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/760,044

Applicant(s)

ROHDE ET AL.

Examiner

Kang Hu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1, line 4 states “plurality of predetermined people other than the customer”, it is unclear to the examiner how the customer can be excluded from the predetermined people in the database in view of the specification.

Claims 2-7 are rejected because they are dependent upon claim 1.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2, 3, 6, 7, 14, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Re claim 2 and 14, the phrase "other eye scans" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "other eye scans"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Re claim 3 recites the limitation "the group of databases" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Re claims 6 and 7 recites the limitation "the identifies" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Re claim 18 recites the limitation "the first" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Re claim 19 recites the limitation "the first" in line 2 and 5. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ort et al. (5,659,626).

Re claim 1: Ort discloses of a method comprising of detecting biometric information of a customer (col 1, lines 50-57); comparing the biometric information of the customer against a database of biometric information (col 2, lines 5-26) of a plurality of predetermined people other than the customer to yield one or more people having biometric information that most closely matches the biometric information of the customer (col 1, lines 57-61); and, indicating to the customer by the entertainment machine of identities of the one or more people having biometric information that most closely matches the biometric information of the customer (col 2, lines 5-15).

Ort further discloses:

Re claim 2: the biometric information of the customer comprises acquiring one or more of: facial images of the customer; voice samples of the customer; fingerprint scans of the customer; handprint scans of the customer; and, retinal or other eye scans of the customer (col 1, lines 50-58)

Re claim 4: comparing the biometric information of the customer against the database of biometric information of the plurality of predetermined people other than the customer comprises yielding a predetermined number of the one or more people having biometric information that

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most closely matches the biometric information of the customer (col 1, lines 50-67; col 2, lines 15-26; col 2, lines 57-57; col 3, lines 1-15).

Re claim 5: comparing the biometric information of the customer against the database of biometric information of the plurality of predetermined people other than the customer comprises yielding the one or more people having biometric information that most closely matches the biometric information of the customer as the one or more people having biometric information that matches the biometric information of the customer by more than a threshold (col 1, lines 50-67; col 2, lines 15-26; col 2, lines 57-57; col 3, lines 1-15).

Re claim 6: indicating to the customer by the entertainment machine of the identifies of the one or more people having biometric information that most closely matches the biometric information of the customer comprises displaying at least one of a picture and a name of each of the one or more people (col 1, lines 25-29).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-8, 10-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Howard et al. (US 2004/0133582 A1)

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Re claim 1: Howard discloses of a method comprising of detecting biometric information of a customer; comparing the biometric information of the customer against a database of biometric information (abstract; page 12, ¶ 149) of a plurality of predetermined people other than the customer to yield one or more people having biometric information that most closely matches the biometric information of the customer (page 12, ¶ 143-145); and, indicating to the customer by the entertainment machine of identities of the one or more people having biometric information that most closely matches the biometric information of the customer (page 12, ¶ 148).

Howard further discloses:

Re claim 2: the biometric information of the customer comprises acquiring one or more of: facial images of the customer; voice samples of the customer; fingerprint scans of the customer; handprint scans of the customer; and, retinal or other eye scans of the customer (page 2, ¶ 19-20).

Re claim 3: the biometric information of the customer against the database of biometric information of the plurality of predetermined people other than the customer comprises comparing the biometric information of the customer against one or more databases selected from the group of databases comprising: a database of biometric information of a plurality of famous individuals; a database of biometric information of a plurality of sports stars; a database of biometric information of a plurality of celebrities; a database of biometric information of a plurality of politicians; a database of biometric information of a plurality of historical figures; and, a database of biometric information of a plurality of fictitious characters (page 12, ¶ 147-149).

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Re claim 4: comparing the biometric information of the customer against the database of biometric information of the plurality of predetermined people other than the customer comprises yielding a predetermined number of the one or more people having biometric information that most closely matches the biometric information of the customer (page 12, ¶ 143-145).

Re claim 5: comparing the biometric information of the customer against the database of biometric information of the plurality of predetermined people other than the customer comprises yielding the one or more people having biometric information that most closely matches the biometric information of the customer as the one or more people having biometric information that matches the biometric information of the customer by more than a threshold (page 12, ¶ 143-149).

Re claim 6: indicating to the customer by the entertainment machine of the identifies of the one or more people having biometric information that most closely matches the biometric information of the customer comprises displaying at least one of a picture and a name of each of the one or more people (page 2, ¶ 19-21).

Re claim 7: indicating to the customer by the entertainment machine of the identifies of the one or more people having biometric information that most closely matches the biometric information of the customer comprises printing a hardcopy of at least a picture and a name of each of the one or more people (page 8, ¶ 112).



Re claim 8: Howard discloses of a biometric acquisition mechanism to obtain biometric information of a customer; a computer-readable medium having stored thereon a database of biometric information of a plurality of predetermined people (abstract; page 2, ¶ 19-21); a comparison mechanism to compare the biometric information of the customer against the database to yield one or more people having biometric information that most closely matches the biometric information of the customer (page 12, ¶ 143-145); and, an output mechanism to indicate to the customer the one or more people having biometric information that most closely matches the biometric information of the customer (page 8, ¶ 112);

Howard further discloses:

Re claim 10: the biometric acquisition mechanism comprises one or more of: an image-capturing mechanism to capture at least one of facial -images, retinal scans, and eye scans of the customer; a sound-recording mechanism to record voice samples of the customer; and, a touch-sensitive mechanism to Obtain at least one of fingerprint scans and handprint scans of the customer (page 1, ¶ 12-13).

Re claim 11: the database comprises one or more of: a database of biometric information of a plurality of famous individuals; a database of biometric information of a plurality of sports stars; a database of biometric information of a plurality of celebrities; a database of biometric information of a plurality of politicians; a database of biometric information of a plurality of

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historical figure; and, a database of biometric information of a plurality of fictitious characters (page 12, ¶ 147-149).

Re claim 12: the output mechanism comprises at least one of: a display device, and a printing device (page 8, ¶ 112).

Re claim 13: detecting biometric information of a first customer by an entertainment machine; detecting biometric information of a second customer by the entertainment machine; determining how closely the biometric information of the first customer and the biometric information of the second customer match; and, indicating how closely the biometric information of the first customer and the biometric information of the second customer match to the first and the second customers by the entertainment machine (page 2, ¶ 22-23).

Re claim 14: detecting the biometric information comprises acquiring one or more of: facial images; voice samples; fingerprint scans; handprint scans; and, retinal or other eye scans (page 7, ¶ 100; page 8, ¶ 105; fig 1).

Re claim 15: determining how closely the biometric information of the first customer and the biometric information of the second customer match comprises determining a similarity value between the biometric information of the first customer and the biometric information of the second customer (page 10, ¶ 125 and 126).

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Re claim 16: indicating how closely the biometric information of the first customer and the biometric information of the second customer match to the first and the second customers comprises displaying the similarity value (page 2, ¶ 22-23; page 7, ¶ 102; page 10, ¶ 125 and 126).

Re claim 17: indicating how closely the biometric information of the first customer and the biometric information of the second customer match to the first and the second customers comprises printing a hardcopy of the similarity value (fig 4).

Re claim 18: a biometric acquisition mechanism to obtain biometric information of a first customer and biometric information of a second customer; a comparison mechanism to determine how closely the biometric information of the first customer matches the biometric information of the second customer; and, an output mechanism to indicate to the first and the second customers how closely the biometric information of the first customer matches the biometric information of the second customer (page 10, ¶ 125 and 126).

Re claim 20: means for obtaining biometric information from a plurality of customers; means for storing a database of biometric information of a plurality of predetermined plurality; means for comparing the biometric information of each customer against the database to yield one or more people having biometric information that most closely matches the biometric information of the customer; means for determining how closely the biometric information of each customer matches the biometric information of each other customer; and, means for indicating to each customer the one or more people having biometric information that most closely matches the

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biometric information of the customer and how closely the biometric information of the customer matches the biometric information of at least one of the other customers. (page 2, ¶ 29-21; page 6, ¶ 88 and 89; page 7, ¶ 102; page 8, ¶ 104 -106, ¶ 111-113; Fig 3), (claim 20 invokes 112 6<sup>th</sup> paragraph).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard in view of Walker et al. (6,110,041). The teachings of Howard have been discussed above.

Re claim 9: Howard did not teach a credit-accepting mechanism to accept cash-oriented credit from the customer and in response initiate obtaining the biometric information of the customer, comparing the biometric information of the customer against the database, and indicating to the customer the one or more people having biometric information that most closely matches the biometric information of the customer.

Howard Further did not teach:

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Re claim 19: a credit-accepting mechanism to accept cash-oriented credit from at least one of the first and the second customers and in response initiating obtaining the biometric information, determining how closely the biometric information of the first customer matches the biometric~ information of the second customer, and indicating to the first and the second customers how Closely the biometric information of the first customer matches the biometric information of the second customer.

Walker teaches that the machine can accept cash-oriented credit from customers in his patent (abstract).

Therefore in view of Walker, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a credit-accepting mechanism to accept cash-oriented credit from the customer for convenience and ease of payment options.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Meyer discloses in his invention of a method for determining compatibility and resemblance between people using biometric face recognition.

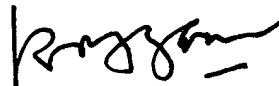
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kang Hu whose telephone number is (571)270-1344. The examiner can normally be reached on 7:30 - 5(M-F) (Off every other friday).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk(James) Lee can be reached on 571-272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KH/  
Kang Hu  
Dec 13, 2006

  
**KIM NGUYEN**  
**PRIMARY EXAMINER**